

**Executive Summary – Enforcement Matter – Case No. 48161**  
**South Texas Aggregates, Inc.**  
**RN104557400**  
**Docket No. 2014-0151-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Portable 428 Trakpactor SNQM013057TI, located two miles east of the Bob Bullock Loop and Highway 59 intersection, Laredo, Webb County

**Type of Operation:**

Rock crusher

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 30, 2014

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$18,269

**Amount Deferred for Expedited Settlement:** \$3,653

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$14,616

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** August 22, 2011 and September 18, 2013

**Date(s) of NOE(s):** October 19, 2013

**Executive Summary – Enforcement Matter – Case No. 48161**  
**South Texas Aggregates, Inc.**  
**RN104557400**  
**Docket No. 2014-0151-AIR-E**

***Violation Information***

1. Failed to notify the TCEQ within 30 days after a change of ownership. Specifically, the Respondent failed to notify the TCEQ of a change in ownership for the Portable 428 Trakpactor, Serial No. QM013057 [30 TEX. ADMIN. CODE § 116.110(e)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to report an excess opacity event within 24 hours after discovery. Specifically, the Respondent failed to notify the TCEQ within 24 hours after the discovery of an excess opacity event that occurred on August 22, 2011 [30 TEX. ADMIN. CODE § 101.201(e) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
3. Failed to obtain proper authorization prior to relocating and operating a rock crusher. Specifically, the Respondent moved the 428 Trakpactor Rock Crusher, Serial No. QM013057, to the Site and began operating the rock crusher prior to obtaining the proper authorization [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].
4. Failed to comply with the 30 percent opacity limit. Specifically, during an investigation conducted on August 22, 2011, an opacity observation for the 428 Trakpactor Rock Crusher, Serial No. QM013057, beginning at 4:24 p.m. and ending at 4:30 p.m. documented an averaged opacity of 61.87 percent [30 TEX. ADMIN. CODE § 111.111(a)(8) and TEX. HEALTH & SAFETY CODE § 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On October 13, 2012, the Respondent ended crushing operations and removed the 428 Trakpactor Rock Crusher, Serial No. QM013057, from the Site.

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days:
  - i. Implement measures to ensure change of ownership notifications are submitted in a timely manner; and
  - ii. Implement measures and/or procedures designed to comply with the opacity limit.
- b. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision a.

**Executive Summary – Enforcement Matter – Case No. 48161**  
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***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Amancio R. Gutierrez, Enforcement Division,  
Enforcement Team 5, MC 149, (512) 239-3921; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Clay Coleman, Vice President, South Texas Aggregates, Inc., 4343 East  
Main Street, Uvalde, Texas 78801  
**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	28-Oct-2013	<b>Screening</b>	26-Nov-2013	<b>EPA Due</b>	
	<b>PCW</b>	26-Mar-2014				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	South Texas Aggregates, Inc.		
<b>Reg. Ent. Ref. No.</b>	RN104557400		
<b>Facility/Site Region</b>	16-Laredo	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	48161	<b>No. of Violations</b>	4
<b>Docket No.</b>	2014-0151-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amancio R. Gutierrez
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$17,000**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$1,359  
Approx. Cost of Compliance \$1,750  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$17,000**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **7.5%** **Adjustment** **\$1,269**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement to capture the avoided cost of compliance with Violation Nos. 2 and 3.

**Final Penalty Amount** **\$18,269**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$18,269**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$3,653**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$14,616**

Screening Date 26-Nov-2013

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PCW

Respondent South Texas Aggregates, Inc.

Policy Revision 2 (September 2002)

Case ID No. 48161

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104557400

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

Screening Date 26-Nov-2013

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PCW

Respondent South Texas Aggregates, Inc.

Policy Revision 2 (September 2002)

Case ID No. 48161

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104557400

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(e)(1) and Tex. Health &amp; Safety Code § 382.085(b)

Violation Description Failed to notify the TCEQ within 30 days after a change of ownership. Specifically, the Respondent failed to notify the TCEQ of a change in ownership for the Portable 428 Trakpactor, Serial No. QM013057.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1 69 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	x		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$1,075

This violation Final Assessed Penalty (adjusted for limits) \$1,075

# Economic Benefit Worksheet

**Respondent** South Texas Aggregates, Inc.  
**Case ID No.** 48161  
**Reg. Ent. Reference No.** RN104557400  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	22-Aug-2011	22-Aug-2014	3.00	\$15	n/a	\$15

Notes for DELAYED costs

Estimated cost to implement measures to ensure change of ownership notifications are submitted in a timely manner. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$15



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PCW

Respondent South Texas Aggregates, Inc.

Policy Revision 2 (September 2002)

Case ID No. 48161

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104557400

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 101.201(e) and Tex. Health &amp; Safety Code § 382.085(b)

## Violation Description

Failed to report an excess opacity event within 24 hours after discovery. Specifically, the Respondent failed to notify the TCEQ within 24 hours after the discovery of an excess opacity event that occurred on August 22, 2011.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

417 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$276

Violation Final Penalty Total \$1,075

This violation Final Assessed Penalty (adjusted for limits) \$1,075

# Economic Benefit Worksheet

**Respondent** South Texas Aggregates, Inc.

**Case ID No.** 48161

**Reg. Ent. Reference No.** RN104557400

**Media** Air

**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$250	23-Aug-2011	13-Oct-2012	2.06	\$26	\$250	\$276

Notes for AVOIDED costs

Estimated avoided cost for submitting the excess opacity event report. The Date Required is the date the report was due and the Final Date is the date the report was no longer required.

Approx. Cost of Compliance

\$250

**TOTAL**

\$276

Screening Date 26-Nov-2013

Docket No. 2014-0151-AIR-E

PCW

Respondent South Texas Aggregates, Inc.

Policy Revision 2 (September 2002)

Case ID No. 48161

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104557400

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health &amp; Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description

Failed to obtain proper authorization prior to relocating and operating a rock crusher. Specifically, the Respondent moved the 428 Trakpactor Rock Crusher, Serial No. QM013057, to the Site and began operating the rock crusher prior to obtaining the proper authorization.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 14

418 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$14,000

Fourteen monthly events are recommended from the investigation date, August 22, 2011, to the last day of operation October 13, 2012.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$14,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$993

Violation Final Penalty Total \$15,045

This violation Final Assessed Penalty (adjusted for limits) \$15,045

# Economic Benefit Worksheet

**Respondent** South Texas Aggregates, Inc.  
**Case ID No.** 48161  
**Reg. Ent. Reference No.** RN104557400  
**Media** Air  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$900	22-Aug-2011	13-Oct-2012	2.06	\$93	\$900	\$993

Notes for AVOIDED costs

Estimated avoided cost to obtain the proper authorization for the rock crusher. The Date Required is the investigation date and the Final Date is the date the rock crusher was removed from the site.

Approx. Cost of Compliance	\$900	<b>TOTAL</b>	\$993
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Screening Date 26-Nov-2013

Docket No. 2014-0151-AIR-E

PCW

Respondent South Texas Aggregates, Inc.

Policy Revision 2 (September 2002)

Case ID No. 48161

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104557400

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 111.111(a)(8) and Tex. Health &amp; Safety Code § and 382.085(b)

Violation Description

Failed to comply with the 30 percent opacity limit. Specifically, during an investigation conducted on August 22, 2011, an opacity observation for the 428 Trakpactor Rock Crusher, Serial No. QM013057, beginning at 4:24 p.m. and ending at 4:30 p.m. documented an averaged opacity of 61.87 percent.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$75

Violation Final Penalty Total \$1,075

This violation Final Assessed Penalty (adjusted for limits) \$1,075

# Economic Benefit Worksheet

**Respondent** South Texas Aggregates, Inc.  
**Case ID No.** 48161  
**Reg. Ent. Reference No.** RN104557400  
**Media** Air  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$500	22-Aug-2011	22-Aug-2014	3.00	\$75	n/a	\$75

Notes for DELAYED costs

Estimated cost for implementing measures and/or procedures to comply with the opacity limit. The Date Required is the investigation date and the Final Date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$75



# Compliance History Report

**PUBLISHED** Compliance History Report for CN601253529, RN104557400, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

<b>Customer, Respondent, or Owner/Operator:</b>	CN601253529, South Texas Aggregates, Inc.	<b>Classification:</b> SATISFACTORY	<b>Rating:</b> 2.14
<b>Regulated Entity:</b>	RN104557400, PORTABLE 428 TRAKPACTOR SNQM013057TI	<b>Classification:</b> HIGH	<b>Rating:</b> 0.00
<b>Complexity Points:</b>	4	<b>Repeat Violator:</b>	NO
<b>CH Group:</b>	04 - Mining		
<b>Location:</b>	TWO MILES EAST OF THE BOB BULLOCK LOOP AND HIGHWAY 59 INTERSECTION IN LAREDO, WEBB COUNTY, TEXAS		
<b>TCEQ Region:</b>	REGION 16 - LAREDO		
<b>ID Number(s):</b>	AIR NEW SOURCE PERMITS REGISTRATION 75236L002      AIR NEW SOURCE PERMITS REGISTRATION 75236L001 AIR QUALITY NON PERMITTED ID NUMBER R16104557400		
<b>Compliance History Period:</b>	September 01, 2008 to August 31, 2013	<b>Rating Year:</b>	2013
		<b>Rating Date:</b>	09/01/2013
<b>Date Compliance History Report Prepared:</b>	February 12, 2014		
<b>Agency Decision Requiring Compliance History:</b>	Enforcement		
<b>Component Period Selected:</b>	February 12, 2009 to February 12, 2014		
<b>TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.</b>			
<b>Name:</b>	Amancio R. Gutierrez		<b>Phone:</b> (512) 239-3921

## Site and Owner/Operator History:

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |
| 3) If <b>YES</b> for #2, who is the current owner/operator?  | N/A |
| 4) If <b>YES</b> for #2, who was/were the prior owner(s)/operator(s)?                              | N/A |
| 5) If <b>YES</b> , when did the change(s) in owner or operator occur?                              | N/A |

## Components (Multimedia) for the Site Are Listed in Sections A - J

**A. Final Orders, court judgments, and consent decrees:**  
N/A

**B. Criminal convictions:**  
N/A

**C. Chronic excessive emissions events:**  
N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**  
N/A

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
SOUTH TEXAS AGGREGATES,  
INC.  
RN104557400**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2014-0151-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding South Texas Aggregates, Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent operated a rock crusher located two miles east of the Bob Bullock Loop and Highway 59 intersection in Laredo, Webb County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about October 24, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eighteen Thousand Two Hundred Sixty-Nine Dollars (\$18,269) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Fourteen Thousand Six Hundred

Sixteen Dollars (\$14,616) of the administrative penalty and Three Thousand Six Hundred Fifty-Three Dollars (\$3,653) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that on October 13, 2012, the Respondent ended crushing operations and removed the 428 Trakpactor Rock Crusher, Serial No. QM013057, from the Site.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As previous operator of the Site, the Respondent is alleged to have:

1. Failed to notify the TCEQ within 30 days after a change of ownership, in violation of 30 TEX. ADMIN. CODE § 116.110(e)(1) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 22, 2011 and a record review conducted on September 18, 2013. Specifically, the Respondent failed to notify the TCEQ of a change in ownership for the Portable 428 Trakpactor, Serial No. QM013057.
2. Failed to report an excess opacity event within 24 hours after discovery, in violation of 30 TEX. ADMIN. CODE § 101.201(e) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 22, 2011 and a record review conducted on September 18, 2013. Specifically, the Respondent failed to notify the TCEQ within 24 hours after the discovery of an excess opacity event that occurred on August 22, 2011.

3. Failed to obtain proper authorization prior to relocating and operating a rock crusher, in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b) as documented during a record review conducted on September 18, 2013. Specifically, the Respondent moved the 428 Trakpactor Rock Crusher, Serial No. QMo13057, to the Site and began operating the rock crusher prior to obtaining the proper authorization.
4. Failed to comply with the 30 percent opacity limit, in violation of 30 TEX. ADMIN. CODE § 111.111(a)(8) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during a record review conducted on September 18, 2013. Specifically, during an investigation conducted on August 22, 2011, an opacity observation for the 428 Trakpactor Rock Crusher, Serial No. QMo13057, beginning at 4:24 p.m. and ending at 4:30 p.m. documented an averaged opacity of 61.87 percent.

### **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

### **IV. ORDERING PROVISIONS**

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: South Texas Aggregates, Inc., Docket No. 2014-0151-AIR-E" to:  
  
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order:
    - i. Implement measures to ensure change of ownership notifications are submitted in a timely manner; and
    - ii. Implement measures and/or procedures designed to comply with the opacity limit.
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation

including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section Manager  
Laredo Regional Office  
Texas Commission on Environmental Quality  
707 East Calton Road, Suite 304  
Laredo, Texas 78041-3887

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*[Signature]*  
For the Executive Director

10/31/14  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Clay Coleman*  
Signature

4-28-14  
Date

Clay Coleman  
Name (Printed or typed)  
Authorized Representative of  
South Texas Aggregates, Inc.

Vice President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.